

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

SHEETZ, INC., *et al.*,

Plaintiffs,

Case No. 3:24-cv-59

vs.

CITY OF CENTERVILLE, OHIO, *et al.*,

Defendants.

District Judge Michael J. Newman,
Magistrate Judge Caroline H. Gentry

**ORDER DENYING PLAINTIFFS' MOTION TO DISMISS AND/OR STRIKE
EPIPHANY EVANGELICAL LUTHERAN CHURCH'S COUNTERCLAIM FOR
DECLARATORY JUDGMENT WITHOUT PREJUDICE (Doc. No. 38)**

Plaintiffs Hemmert Far Hills Properties LLC, Morse Road Development LLC, and Sheetz, Inc. filed a complaint on March 3, 2025. Doc. No. 19. Defendant Epiphany Evangelical Lutheran Church filed an answer that includes a counterclaim for a declaratory judgment. Doc. No. 35. In response, Plaintiffs filed a motion to dismiss and/or strike Defendant's counterclaim. Doc. No. 38. On February 20, 2025, Plaintiffs filed a motion for leave to file a first amended complaint. Doc. No. 62. The Court granted Plaintiffs' motion for leave to amended on May 15, 2025. Doc. No. 94. Accordingly, the Court **DENIES AS MOOT** Plaintiffs' motion to dismiss.

IT IS SO ORDERED.

May 15, 2025

s/Michael J. Newman
Hon. Michael J. Newman
United States District Judge